

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noah Kalkstein	Team: Team # 7	CCRB Case #: 200607105	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 05/28/2006 12:38 AM	Location of Incident: § 87(2)(b)	Precinct: 44	18 Mo. SOL 11/28/2007	EO SOL 11/28/2007	
Date/Time CV Reported Sun, 05/28/2006 12:45 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/31/2006 6:27 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Patrick Cortright	00000	910420	044 PCT
2. CPT William Mcsorley	00000	895725	044 PCT
3. LT Philip Rivera	00000	916539	044 PCT
4. INS James Essig	00000	879610	044 PCT
5. LT Brian Gill	00000	904030	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Madelyn Perez	28462	939212	044 PCT
2. POM Jose Rodriguez	27982	939341	044 PCT
3. POM Jonathan Korabel	03871	930498	044 PCT
4. POM Carlos Zapata	27730	916951	044 PCT
5. POM Marcos Sanchez	04155	931134	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.INS James Essig	Abuse: Ins. James Essig forcibly stopped § 87(2)(b)	
B.CPT William Mcsorley	Abuse: Cpt. William McSorley forcibly stopped § 87(2)(b)	
C.CPT William Mcsorley	Force: Cpt. William McSorley used physical force against § 87(2)(b) and an individual known as § 87(2)(b)	
D.LT Patrick Cortright	Force: Lt. Patrick Cortright used physical force against § 87(2)(b)	
E.LT Patrick Cortright	Force: Lt. Patrick Cortright used a chokehold against § 87(2)(b)	
F.LT Philip Rivera	Force: Lt. Philip Rivera used physical force against § 87(2)(b)	
G.CPT William Mcsorley	Force: Cpt. William McSorley struck § 87(2)(b) with an asp.	

Officer(s)	Allegation	Investigator Recommendation
H.LT Brian Gill	Discourtesy: Lt. Brian Gill spoke obscenely and rudely to § 87(2)(b)	

Synopsis

On April 28, 2006, at around 12:30am, a large-scale fight took place during a block party near § 87(2)(b) and § 87(2)(b) in the Bronx. A number of officers from the 44th Precinct were already in the area after a report of shots fired was made a few blocks away. After observing large crowds in front of § 87(2)(b) the Commanding Officer and the Executive Officer of the 44th Precinct, Ins. James Essig and Cpt. William McSorley, walked to the scene. Around this time, both officers overheard a group of youths make statements indicating that further violence was imminent. Due to this suspicion as well as ‘airmail’ being thrown at the officers from the vicinity of the building, several officers, including Ins. Essig and Cpt. McSorley, entered § 87(2)(b). As various officers conducted vertical patrols in the building, Ins. Essig and Cpt. McSorley came across a group of youths including § 87(2)(b) § 87(2)(b) and § 87(2)(b) arguing loudly in the 2nd floor hallway. Ins. Essig and Cpt. McSorley forcibly stopped § 87(2)(b) (Allegations A and B). As Ins. Essig held § 87(2)(b) against a wall, the § 87(2)(b) sisters attempted to intervene. Cpt. McSorley pushed both girls back (§ 87(2)(b) twice) before § 87(2)(b) ran towards him with her arms flailing, striking him in the face (Allegation C). Cpt. McSorley responded by forcefully pushing or striking § 87(2)(b) in the upper body, forcing her back (Allegation C). Cpt. McSorley then pursued § 87(2)(b) and threw a right punch, striking § 87(2)(b) in the face and causing her head to collide with § 87(2)(b) (Allegation C). Cpt. McSorley then punched an individual named § 87(2)(b) in the face after she ran towards him as he struck § 87(2)(b) (Allegation C). Cpt. McSorley then allegedly struck § 87(2)(b) who was visibly pregnant, before throwing her face-forward to the floor (Allegation C). Meanwhile, additional officers arrived in the hallway, including Lt. Patrick Cortright, Lt. Philip Rivera and Lt. Brian Gill. As Lt. Cortright assisted in handcuffing § 87(2)(b) Cpt. McSorley succeeded in handcuffing a resisting § 87(2)(b). After § 87(2)(b) was removed from the hallway, his cousin, § 87(2)(b) arrived and was physically blocked by Lt. Cortright from approaching § 87(2)(b). A shoving match ensued between Lt. Cortright and § 87(2)(b) (Allegation D), before Lt. Cortright pulled § 87(2)(b) into the corner of the hallway with his arm around his neck, allegedly choking him (Allegation E). Lt. Philip Rivera assisted in subduing § 87(2)(b) (Allegation F) as § 87(2)(b) fell face forward to the floor. Once he was on the floor, Cpt. McSorley struck § 87(2)(b) in the ankles multiple times with his asp (Allegation G). On the floor, Lt. Cortright and Lt. Rivera struck § 87(2)(b) repeatedly in the upper body before successfully handcuffing him (Allegations D and F). As she was being walked out of the building, Lt. Gill allegedly called § 87(2)(b) a “bitch” (Allegation H). § 87(2)(b) § 87(2)(b) and § 87(2)(b) were all arrested.

§ 87(2)(g)

Summary of Complaint

An unidentified female filed this complaint with IAB at 12:45am on May 28, 2006, stating that a pregnant female was being beaten by several police officers (encl. 12). The complaint was referred to the CCRB on May 31, 2006 (encl. 13).

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) black male who stands 5'2" tall, weighs 120 pounds and has brown hair. § 87(2)(b) was first contacted at the phone number mistakenly listed in the IAB log for § 87(2)(b). At that time § 87(2)(b) stated that he was involved in the incident.

§ 87(2)(b) was interviewed at the CCRB on July 17, 2006 (encl. 14).

In the early morning of May 28, 2006, § 87(2)(b) his girlfriend § 87(2)(b) and several friends were having a barbecue outside of their building, § 87(2)(b) in the Bronx. At some point during the barbecue, some of § 87(2)(b) friends went across the street to another barbecue and got into a fight with unknown individuals. After running back to § 87(2)(b) building, one of § 87(2)(b) friends collapsed, having been hit in the chest with a baseball bat. At that time a large number of police officers, along with an ambulance, came to the scene. Unidentified police officers ordered everyone at the scene to go back inside their homes. Around 12:30am, § 87(2)(b) and § 87(2)(b) got into an argument as they entered the building, because § 87(2)(b) was asking § 87(2)(b) to come inside, since she was nine-months pregnant at the time. § 87(2)(b) and § 87(2)(b) proceeded to walk up to the second floor of the building, on the opposite side of the building as § 87(2)(b) second floor apartment. While in the hallway § 87(2)(b) and § 87(2)(b) continued to speak to each other, but in a calm tone. § 87(2)(b) sister, § 87(2)(b) as well as a friend, § 87(2)(b) were present at that time. After a few minutes, two police officers in white shirts (identified by § 87(2)(b) as sergeants) came to the floor and approached § 87(2)(b) and § 87(2)(b). These officers were identified by the investigation as Ins. James Essig and Cpt. William McSorley of the 44th Precinct. One of the officers asked who lived in the building and § 87(2)(b) stated that he did. § 87(2)(b) walked around § 87(2)(b) and the other girls, to get closer to the officer, and reached into his pocket to produce identification. Cpt. McSorley then pushed § 87(2)(b) in the chest with both hands, causing him to "bounce" off of a wall and back towards the officer. § 87(2)(b) said, "What are you doing?" and Cpt. McSorley attempted to push him again. § 87(2)(b) moved out of the way and attempted to walk away from the officer. Ins. Essig then grabbed § 87(2)(b) pushed him face first against a wall, and handcuffed him. Ins. Essig held § 87(2)(b) against the wall in such a way that he could not move. § 87(2)(b) and § 87(2)(b) began yelling, asking the officers why they were arresting § 87(2)(b). Cpt. McSorley said, "shut up, get out of here," and then "mushed" the two girls in their faces at the same time. § 87(2)(b) described this action as the officer pushing each of their faces back with one open palm, at the same time. § 87(2)(b) and § 87(2)(b) then "got hype" and began swinging their arms at Cpt. McSorley. Cpt. McSorley, who was very tall, put out one arm to block both of the girls' swinging arms. § 87(2)(b) was standing approximately four to five feet from § 87(2)(b) and stated, "Chill, what you doing?" but did not physically get involved. Cpt. McSorley then swung a closed fist at § 87(2)(b) but she moved and he hit § 87(2)(b) in the face by accident. Cpt. McSorley then turned around and, out of nowhere, punched § 87(2)(b) in the face. § 87(2)(b) grabbed her face and ran down the stairs. Cpt. McSorley then turned back towards § 87(2)(b) and punched her in the face. Cpt. McSorley grabbed § 87(2)(b) by her hair and threw her to the floor, causing her to land on her side, and partially on her pregnant stomach. Cpt. McSorley then got on his knees, on top of § 87(2)(b) and punched her in the stomach two to three times. § 87(2)(b) was crying and screaming while being hit. After § 87(2)(b) was on the ground, § 87(2)(b) was quickly walked out of the building and placed into a patrol car by Ins. Essig. As he was walked out of the building several officers ran up the stairs towards the second floor. § 87(2)(b) could not describe these officers. As he went down the stairs, § 87(2)(b) noticed that § 87(2)(b) had stopped screaming, so he thought she may have passed out or been knocked unconscious.

Soon after § 87(2)(b) was placed into a patrol car, his cousin, § 87(2)(b) was placed into the patrol car with § 87(2)(b). § 87(2)(b) then told him that as § 87(2)(b) was walked out, he walked upstairs and

observed an officer punching § 87(2)(b). He asked the officers “what the fuck they were doing,” tried to get involved, and was subsequently arrested as well. He told § 87(2)(b) that he was hit by the officers as well. § 87(2)(b) estimated that the entire incident, from when the officers first approached him to when he was put into a patrol car was ten to fifteen minutes.

§ 87(2)(b). § 87(2)(b) was not injured in the incident and never sought medical attention.

§ 87(2)(b) stated that the entire incident was caught on a security camera in the second floor hallway. § 87(2)(b) was told after he was released from central booking that police officers came to the building twice on the day of the incident to get the tape, but the building super would not release it without a court order.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) black female who stands 5’3” tall, weighs 150 pounds and has black hair. She was listed in the IAB log as the complainant/victim in this case.

§ 87(2)(b) was treated at § 87(2)(b) from § 87(2)(b), to § 87(2)(b) while in police custody (encl. 15A). Her medical records from § 87(2)(b) note that § 87(2)(b) stated that on May 28, 2006, “she was with her boyfriend in front of her building when police enter building and pin her boyfriend to the wall. Patient also stated the police officer began to assault her when she attempted to stop them from arresting her boyfriend. Patient states she was struck in the face and hit in the stomach by police officers.” It is further noted that § 87(2)(b) “is happy with her pregnancy and upset that she was assaulted by police officers.” § 87(2)(b) complained of abdominal pain.

§ 87(2)(b) was interviewed at the CCRB on July 17, 2006 (encl. 15B).

On April 27, 2006, § 87(2)(b) her boyfriend § 87(2)(b) and a group of friends had a barbecue outside of their building, § 87(2)(b) in the Bronx. The barbecue ended around midnight. Soon after, a fight broke out outside the building involving unknown individuals and a large number of police officers responded to the scene. Around 12:30am, § 87(2)(b) and § 87(2)(b) entered their building and went up to the second floor while speaking with one another. § 87(2)(b) was mad about something that had occurred outside, but § 87(2)(b) denied that they were arguing, screaming or yelling.

After speaking in the second floor hallway, along with § 87(2)(b) sister, § 87(2)(b) for approximately three minutes, two uniformed officers in white shirts, identified by the investigation as Ins. Essig and Cpt. McSorley came up to the second floor and approached them. Ins. Essig asked them if they lived in the building and they responded that they did. The officers then told them to go inside their apartments. As they began to walk away, Ins. Essig pushed § 87(2)(b) in the chest with both hands, up against a wall. § 87(2)(b) asked why he did that and stated, “We were leaving.” § 87(2)(b) then said, “That’s my baby mother,” and Ins. Essig grabbed him, threw him face first against a wall, and handcuffed him. § 87(2)(b) denied that § 87(2)(b) was reaching into his pocket or attempted to fight with the officer. § 87(2)(b) continued to protest and approached Ins. Essig, but Cpt. McSorley pushed both § 87(2)(b) and § 87(2)(b) with one of his forearms against their necks, causing § 87(2)(b) who was nine-months pregnant, to fall to the floor. § 87(2)(b) immediately got back up and began to run towards § 87(2)(b) who was being led away by Ins. Essig. As she ran towards § 87(2)(b) swinging her arms, Cpt. McSorley punched § 87(2)(b) in the left side of her face with a closed fist, causing her to stumble back. § 87(2)(b) admitted that she might have hit Cpt. McSorley by mistake, as she tried to stop Ins. Essig from taking § 87(2)(b) away. During this time § 87(2)(b) was crying and asking the officer to stop hitting § 87(2)(b). Approximately five additional white male uniformed officers then arrived on the second floor and somehow § 87(2)(b) ended up on the ground. She could not recall how she got there, but recalled that she was face down, sliding across the hall, against a door. Unidentified officers then held § 87(2)(b) face down and placed her in handcuffs. § 87(2)(b) repeatedly tried to tell the officers that she was pregnant and that she could not breathe, but they ignored her. § 87(2)(b) also attempted to move her body to get off of her pregnant stomach, to which she

was feeling pain. While on the ground § 87(2)(b) felt an unidentified officer pulling her hair. During this time, § 87(2)(b) friend, § 87(2)(b) arrived on the floor and may have been pushed by one of the officers. § 87(2)(b) § 87(2)(b) cousin, then arrived on the 2nd floor and told the officers to stop what they were doing to § 87(2)(b) because she was pregnant. Unidentified officers then pushed § 87(2)(b) to the floor and Cpt. McSorley began punching him while he was on the floor. § 87(2)(b) was then handcuffed. Unidentified officers then picked up § 87(2)(b) and held her by the arms as her feet dragged along the stairs, with her body facing sideways. § 87(2)(b) admitted that she was moving her body around during this time, but denied that she was trying to get away from the officers.

As § 87(2)(b) was being led out of the building, Ins. Essig began screaming in her face, "Good for you, you little bitch." Ins. Essig continued to scream in § 87(2)(b) face, but she could not recall his exact words. Before going into the car, § 87(2)(b) vomited on the ground. § 87(2)(b) was taken to the 44th Precinct stationhouse. When she entered, a female officer named "Perez," who was not at the scene, searched her. Approximately twenty minutes after arriving, § 87(2)(b) requested to go to the hospital, since she was having pain to her stomach and was worried about her unborn child. § 87(2)(b) was taken to § 87(2)(b) where she remained, in handcuffs and leg shackles, until § 87(2)(b). At the hospital § 87(2)(b) was given a sonogram and was told that her baby was alright. From the altercation, § 87(2)(b) suffered black and blue marks to her arms and wrists, and swelling to the left side of his face. On § 87(2)(b), § 87(2)(b) was taken back to the 44th Precinct, after which she was taken to Central Booking. She was released from Central Booking on § 87(2)(b).

§ 87(2)(b) described both officers as having red or orange hair, a stocky build and being in their forties. She described one as 5'6" tall and one as 6'2" tall.

§ 87(2)(b) viewed a photo array presentation on December 11, 2006 (encl. 15G-P).

Included in the array were Cpt. Robert Fitzer, Lt. Philip Rivera, Ins. James Essig, Lt. Brian Gill, Cpt. William McSorley, and Lt. Patrick Cortright. Interspersed among the photos were four filler photos.

§ 87(2)(b) identified Lt. Gill as a subject officer. She wrote, "This is the officer I saw push § 87(2)(b) up against the wall then as I was being dragged down the stairs he said "good you little bitch." § 87(2)(b) noted that she did not recognize any of the other officers in the array.

Results of Investigation

Video Evidence

Video footage was obtained for the vestibule and 2nd Floor of § 87(2)(b) from the management company for the building, § 87(2)(b), on July 28, 2006 (encl. 11). The video was originally in Intelligent Digital Systems (IDS) format, and contained an accurate time-stamp. This video format was subsequently converted for ease of use, but no time-related information could be transferred.

The footage from the vestibule of § 87(2)(b) begins at 12:44:07am and shows § 87(2)(b) speaking with an unidentified black male. Soon § 87(2)(b) enters the lobby and immediately pushes § 87(2)(b) against the wall with his hands on her neck. § 87(2)(b) pushes him back and a group of unidentified black females break them up and the entire group enters the building. Approximately one minute later, Ins. Essig, Lt. Gill and Cpt. McSorley enter the building. § 87(2)(b) then enters the building with another female, followed by Lt. Cortright, PO Marcos Sanchez and PO Jonathan Korabel. Several seconds later § 87(2)(b) runs into the building. Approximately one and a half minutes later, § 87(2)(b) is walked out in handcuffs by Lt. Gill. Lt. Gill returns approximately one minute later with PO Carlos Zapata and three unidentified officers. Approximately forty seconds later § 87(2)(b) walks out of the building, stumbling, being assisted by an unidentified black female. Approximately thirty seconds after that § 87(2)(b) and § 87(2)(b) are walked out in handcuffs and all officers leave the building.

The footage from the 2nd Floor of § 87(2)(b) begins at 12:45:40am, when § 87(2)(b) and § 87(2)(b) walk up the stairs with an unidentified black male. § 87(2)(b) soon follows and exchanges words with § 87(2)(b). Approximately thirty seconds later Cpt. McSorley and Ins. Essig enter through a hallway door and immediately approach § 87(2)(b). The unidentified black male leaves the hallway. § 87(2)(b) tries to walk away but Cpt. McSorley places his hands on him to prevent him from leaving. The officers speak to § 87(2)(b) as Ins. Essig pulls him away from § 87(2)(b) and § 87(2)(b). Ins. Essig places § 87(2)(b) face first against a wall and begins to conduct what appears to be a frisk. § 87(2)(b) and § 87(2)(b) walk towards § 87(2)(b) but Cpt. McSorley grabs § 87(2)(b) by the shoulders and pushes her back. § 87(2)(b) and § 87(2)(b) try again to walk towards § 87(2)(b) but Cpt. McSorley pushes both back at the same time. § 87(2)(b) then runs towards Cpt. McSorley with her arms flailing in the air as Cpt. McSorley holds his handcuffs in his right hand. They make contact at the same time with § 87(2)(b) apparently hitting Cpt. McSorley in the face and Cpt. McSorley forcefully pushing or striking her in the upper body or face with a right hand, causing her to stumble back. Cpt. McSorley immediately pursues her and throws a right punch. The punch catches § 87(2)(b) in the left side of her face, causing her head to collide with § 87(2)(b) against the wall. At this point § 87(2)(b) has appeared in the hallway and runs up to the right side of Cpt. McSorley. Cpt. McSorley quickly turns and punches her in the face with a right hand, causing her to stumble back and run from the hallway. He then turns back towards § 87(2)(b) who is standing against the wall. Cpt. McSorley's arm moves as if he is throwing a punch, but his back is towards the camera and it cannot be seen if he strikes her. Cpt. McSorley then forcefully throws § 87(2)(b) to the floor, face down and gets on the floor to handcuff her. By this point, the entire physical altercation has lasted approximately ten seconds. Lt. Cortright, Lt. Gill, PO Sanchez and PO Korabel arrive in the hallway. Lt. Cortright assists Ins. Essig in handcuffing § 87(2)(b) while PO Sanchez assists Cpt. McSorley who is struggling with § 87(2)(b) who is resisting. A small crowd of civilians has formed in the hallway.

§ 87(2)(b) walks up the stairs and sees § 87(2)(b) on the floor. Lt. Cortright blocks his path and directs him away from § 87(2)(b). Pushing ensues between § 87(2)(b) and Lt. Cortright (it is unclear who pushes whom first) and they move off screen. They return to the frame seconds later as Lt. Cortright pulls § 87(2)(b) from behind, with his left arm around his neck, away from the crowd. § 87(2)(b) can be seen grimacing as he struggles. Lt. Rivera assists by grabbing § 87(2)(b) arms as Cpt. McSorley strikes § 87(2)(b) in the ankles with his asp. § 87(2)(b) falls face forward, with Lt. Rivera and Lt. Cortright on top of him. Lt. Rivera punches § 87(2)(b) repeatedly (8-10 times) in the left body as Lt. Cortright punches § 87(2)(b) repeatedly (3-4 times) in the right upper body or head. Meanwhile, Cpt. McSorley again strikes § 87(2)(b) in the legs with his asp. After a few seconds § 87(2)(b) is handcuffed. § 87(2)(b) and § 87(2)(b) are walked down the stairs and all officers leave the floor.

Civilians

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) black male who stands 5'10" tall, weighs 170 pounds and has black hair. He was identified by his cousin, § 87(2)(b) as being involved in this incident.

§ 87(2)(b) was interviewed on the phone on September 21, 2006 (encl. 17).

On May 28, 2006, at approximately 12:45am, § 87(2)(b) had just returned to his building, § 87(2)(b) in the Bronx. § 87(2)(b) went to the second floor and observed his cousin, § 87(2)(b) in handcuffs being held by an unidentified officer. § 87(2)(b) girlfriend, § 87(2)(b) who was pregnant at the time, was in handcuffs, being picked up by an older tall white male with light hair, wearing a white shirt. This officer was identified by the investigation as Cpt. McSorley. As § 87(2)(b) got to the top of the stairs he observed Cpt. McSorley punch § 87(2)(b) once in the stomach. § 87(2)(b) was then quickly walked down the stairs. An older Hispanic-looking male officer in a blue uniform, with glasses, pushed § 87(2)(b) in the chest as he asked why the officer was hitting § 87(2)(b). This officer was identified by the investigation as Lt. Patrick Cortright. After being pushed, § 87(2)(b) moved to the side and repeatedly asked why the officer hit § 87(2)(b). Lt. Cortright then pushed § 87(2)(b) again and again he moved out of the way, and to the side of the stairwell. After pushing him a third time, Lt. Cortright grabbed § 87(2)(b) arm and turned him around. § 87(2)(b) attempted to turn back around but Lt. Cortright put one of his arms around § 87(2)(b) neck, choking

him, preventing him from breathing. § 87(2)(b) began wrestling with Lt. Cortright, attempting to stop him from choking him. As they struggled, a third officer who § 87(2)(b) could not describe, identified by the investigation as Lt. Philip Rivera, grabbed one of § 87(2)(b) arms. § 87(2)(b) then slipped on some liquid that was on the floor and fell forward to the ground. As they continued to struggle on the floor, a fourth officer, who § 87(2)(b) did not see, but who was identified by the investigation as Cpt. McSorley, hit him in the left ankle with a "stick." The struggle continued into the corner of the hallway. During this time an officer identified by the investigation as Lt. Cortright punched § 87(2)(b) in the face. Eventually an officer put his knee on the back of § 87(2)(b) neck and another handcuffed him. By that time § 87(2)(b) was not on the second floor anymore. § 87(2)(b) was then walked out of the building and placed in a patrol car alone. He was incarcerated for three days and then released. He had swelling to his ankle, but it subsided by the time he was released. He stated that he paid a surcharge and will not have to go back to court.

§ 87(2)(b) never heard any officers cursing at § 87(2)(b). He did not see § 87(2)(b) or § 87(2)(b) get arrested, and the only force he witnessed against them was Cpt. McSorley punching her in the stomach.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) black female of an unknown height and weight. She has black hair.

§ 87(2)(b) was interviewed on the phone on August 7, 2006 (encl. 16)

In the early morning of May 28, 2006, an argument took place outside of § 87(2)(b) involving unidentified individuals. At that time § 87(2)(b) the boyfriend of § 87(2)(b) sister, § 87(2)(b) pushed § 87(2)(b) inside the building because he did not want her getting involved in the argument. § 87(2)(b) § 87(2)(b) and § 87(2)(b) then went up to the second floor and were speaking in the hallway. As they were about to go downstairs, two to three officers entered the hallway. § 87(2)(b) could only describe one of those officers: a tall white stocky uniformed male in a white shirt with salt and pepper hair. This officer was identified by the investigation as Cpt. McSorley. One of the officers pushed § 87(2)(b) against a wall and began to arrest him. § 87(2)(b) began screaming for the officer to stop, and Cpt. McSorley then grabbed § 87(2)(b). § 87(2)(b) ran over to stop him and he pushed her away. Cpt. McSorley then punched § 87(2)(b) in the face. At that time § 87(2)(b) saw her friend, § 87(2)(b) running up the stairs. § 87(2)(b) then observed Cpt. McSorley make a motion like he was going to hit § 87(2)(b) and then § 87(2)(b) saw § 87(2)(b) reacting as if she had been hit. § 87(2)(b) then ran down the stairs. The next thing § 87(2)(b) knew § 87(2)(b) was on the ground being hit by Cpt. McSorley. § 87(2)(b) stated that Cpt. McSorley hit § 87(2)(b) with his nightstick in the side and back. Meanwhile § 87(2)(b) was screaming for the officers to get off of him.

More officers soon arrived. After § 87(2)(b) was subdued, § 87(2)(b) observed § 87(2)(b) § 87(2)(b) cousin, on the floor with his face against the floor and unidentified officers' knees in the back of his neck. Unidentified officers were also hitting § 87(2)(b) in the back with their nightsticks. § 87(2)(b) stated that Cpt. McSorley also cursed at § 87(2)(b) and called her a bitch.

Additional Civilians

§ 87(2)(b) § 87(2)(b) and § 87(2)(b) all identified a female who was struck by Cpt. McSorley as "§ 87(2)(b)". They did not know her last name or contact information and stated she did not live in § 87(2)(b). With only a first name and no contact information, the CCRB was unable to fully identify or interview § 87(2)(b). No additional witnesses were identified by the investigation.

Attempts were made to obtain formal statements from § 87(2)(b) and § 87(2)(b) but these attempts were unsuccessful.

NYPD Officers

PO Madelyn Perez

PO Madelyn Perez is a § 87(2)(b) year old Hispanic female who stands 5’8” tall, weighs 160 pounds and has brown hair.

On May 28, 2006, PO Madelyn Perez worked in uniform from 5:30 (May 27) to 2:05am assigned to solo foot post 16, which is in the vicinity of § 87(2)(b) and § 87(2)(b). PO Perez had no entries in her memo book regarding this incident (encl. 19A-C)

PO Madelyn Perez completed the complaint report, arrest reports, and criminal court complaints for § 87(2)(b), § 87(2)(b) and § 87(2)(b) (encl. 19D-19N)

The complaint report narrative for all three arrests states, “At T/P/O defts were observed to be pushing, screaming, and fighting in the hallway. Once police officers were approaching defts, they proceeded to flail arms, push, and use offensive language towards police. Defs were also twisting their bodies refusing to be handcuffed and while in handcuffs continued to push and shove police. Therefore, preventing police from performing their duties.”

The arrest report and criminal court complaint for § 87(2)(b) states that he was “shoving, slapping and screaming at separately apprehended § 87(2)(b) and resisted arrest. The criminal court complaint notes that PO Perez was informed of this by Cpt. McSorley.

The arrest report narrative for § 87(2)(b) notes that she “did strike Lt. Cortright in the chest with a closed fist.” The criminal court complaint notes that, as per Cpt. McSorley, § 87(2)(b) “punched [Cpt. McSorley] in his face one time with a closed fist.” It further states that Cpt. McSorley “suffered soreness, redness and substantial pain to his cheek, as well as experiencing annoyance, alarm, and fear for his physical safety” and that § 87(2)(b) “flailed her arms and legs to prevent from being handcuffed.”

The arrest report and criminal court complaint for § 87(2)(b) states that while Cpt. McSorley attempted to place § 87(2)(b) and § 87(2)(b) under arrest, § 87(2)(b) “repeatedly put his body in between [Cpt. McSorley] and the separately apprehended individuals in order to prevent [Cpt. McSorley] from handcuffing the two separately apprehended individuals, while screaming at [Cpt. McSorley.]”

PO Madelyn Perez was interviewed at the CCRB on September 5, 2006 (encl. 19P-Q).

At some point between approximately 12:30am and 1:00am on May 28, 2006, PO Perez, who was at the 44th Precinct stationhouse at the time, was asked by Cpt. William McSorley and Lt. Patrick Cortright to file an arrest report for Ms. § 87(2)(b). Both Cpt. McSorley and Lt. Cortright informed PO Perez of the circumstances surrounding the arrest, but at the time of the interview PO Perez had no independent memory of the details. Upon reading the arrest report, PO Perez confirmed that she had written the detailed summary of the incident included in the report. Upon direct questioning, PO Perez stated that Lt. Cortright informed her that § 87(2)(b) “did strike Lt. Cortright in the chest with a closed fist,” a detail PO Perez included in her report. PO Perez stated that Cpt. McSorley and Lt. Cortright did not tell her how the arrest was made or if they or any other officers were physically involved. PO Perez stated that she was not present at the scene of the arrests at any point. She did not know whether any officers were injured during the incident.

PO Perez stated that she was not told which, if any, other officers were at the scene of the arrest. However, upon direct questioning, she stated that Cpt. McSorley and Lt. Cortright informed her that Ins. James Essig was present during the incident.

Upon direct questioning, PO Perez stated that she could not independently recall what Cpt. McSorley and Lt. Cortright told her regarding the arrests—specifically, whether physical force was used, and, if so, what kind—further stating that if such details are on the arrest report, then surely they were relayed to her.

PO Perez stated that she was not informed of the condition of § 87(2)(b) or any of the other arrested individuals at any point. She further stated that she never directly observed any of the individuals, and that she did not know who was responsible for processing the arrests. PO Perez did not know whether or not any of the arrested individuals were injured. PO Perez stated that she did not hear any officer using profanity in dealing with any of the arrested individuals.

Captain William McSorley

Cpt. William McSorley is a § 87(2)(b) year old white male who stands 6'5" tall, weighs 250 pounds and has salt and pepper color hair. On May 28, 2006, he was the Executive Officer of the 44th Precinct. Cpt. McSorley is currently the Commanding Officer of the 45th Precinct.

On May 28, 2006, Cpt. McSorley worked in uniform from 6:00pm (May 27, 2006) to 2:00am. Cpt. McSorley drove himself in RMP 5108, a marked SUV. Cpt. McSorley does not keep a memo book.

Cpt. William McSorley was interviewed at the CCRB on November 8, 2006 (encl. 20).

At approximately 12:00am on May 28, 2006, a call of 'shots fired' was made in the vicinity of § 87(2)(b). It was reported that a large dispute was occurring on the street in front of the building in which fifty to seventy-five individuals were fighting and shots had been fired. Upon hearing the call over the radio, Cpt. McSorley immediately responded to the location, as he routinely does when "serious" calls, such as shots fired, are reported. According to Cpt. McSorley, § 87(2)(b) has been an "infamous" location for drug dealing and violent activity for the past ten to fifteen years and a homicide had recently occurred there during a party. When he arrived on May 28, 2006, he parked in front of § 87(2)(b). He observed a large group of people in the street screaming, fighting and throwing bottles. Cpt. McSorley could not recall which officers were already on the scene, but stated that there must have been at least a sergeant present. Cpt. McSorley stated that he was sure he spoke to other officers, but he was not sure which ones. He stated that, according to the arrest report for § 87(2)(b) Lt. Patrick Cortright was present at the scene. Upon direct questioning, Cpt. McSorley confirmed that the Commanding Officer of the 44th Precinct, Ins. James Essig, was also present. He stated that Ins. Essig does sometimes respond to serious jobs.

After he exited his vehicle, Cpt. McSorley observed a group of approximately six to ten individuals entering § 87(2)(b) yelling words "to the effect of, 'This shit ain't over.'" He could not see who made the statement but recalled that it was a male voice. Among this group were individuals later identified as § 87(2)(b) and § 87(2)(b). Fearing that a "secondary dispute" would develop inside the building, and that a firearm might be obtained, Cpt. McSorley followed the group into the building, approximately thirty seconds later. He stated that he was the first officer to enter and he did not know which officers entered behind him. He did confirm, however, that at some point Ins. Essig, Lt. Cortright, Lt. Philip Rivera and Lt. Brian Gill entered the building. Cpt. McSorley believed that the arresting officer for § 87(2)(b) and § 87(2)(b) PO Madelyn Perez, was probably inside the building at some point as well.

Once inside the building, Cpt. McSorley walked through the vestibule, through a second door, and into the lobby, which branches left and right. He heard a commotion coming from up the left-side stairs, so he proceeded in that direction. He could not recall who was with him at that time. When he reached the second floor, Cpt. McSorley observed two females and a male in a corner, near some apartments, "in a physical fight, actually pushing and shoving at each other." They were "pushing each other, slapping each other, yelling, screaming." Cpt. McSorley later identified one of the females as § 87(2)(b) a visibly pregnant female, and the male as § 87(2)(b). The females were slapping § 87(2)(b) and § 87(2)(b) was pushing them back. At one point they banged against an apartment door, making a loud sound. Cpt. McSorley confirmed that he did not observe § 87(2)(b) or § 87(2)(b) fighting prior to observing them on the second floor. As he approached the group, Cpt. McSorley shouted, "Police, don't move." The group of three all looked at Cpt. McSorley then "continued slapping and pushing each other." Cpt. McSorley approached the group, physically separated them, and stepped in between the two females

and the male to try to “calm the situation down.” One of the females, later identified as § 87(2)(b) punched Cpt. McSorley in the face with a right closed fist, right above the left side of his lip. Cpt. McSorley immediately got on his radio and called a 10-85 requesting assistance. He then took out his handcuffs and attempted to place § 87(2)(b) under arrest. He attempted to take control of § 87(2)(b) hands, so that she would not hit him again, but she flailed her arms in resistance. As Cpt. McSorley struggled to hold § 87(2)(b) wrists, § 87(2)(b) ended up on the ground. Cpt. McSorley stated that § 87(2)(b) “might have” fallen to the ground, but he was not sure because “it was a chaotic scene.” Cpt. McSorley denied that he ever threw § 87(2)(b) to the ground. Cpt. McSorley denied that he used any additional force against § 87(2)(b) besides “grabbing her wrists and placing her hands behind her back.” Cpt. McSorley admitted that he was angered by § 87(2)(b) striking him, but stated that he did not believe that he ever struck her. Cpt. McSorley confirmed that he could tell that § 87(2)(b) was pregnant at the time, and stated that he was “trying to” take that into account while struggling with her. He stated, “She was visibly pregnant and I didn’t want to cause any unnecessary injury.”

During the time Cpt. McSorley was struggling to apprehend § 87(2)(b) unidentified officers arrived and were placing § 87(2)(b) under arrest. Cpt. McSorley did not directly observe this, but stated that § 87(2)(b) was being arrested for disorderly conduct, for fighting with the females in a public place and refusing to cease when ordered to do so.

As Cpt. McSorley struggled to handcuff § 87(2)(b) an individual whom Cpt. McSorley identified as § 87(2)(b) brother, § 87(2)(b) appeared from behind Cpt. McSorley and attempted to intervene and “jump into the fight.” Cpt. McSorley initially heard § 87(2)(b) yelling and observed him attempting to push towards the area in between where § 87(2)(b) and § 87(2)(b) were being arrested. There was a crowd of approximately six additional unidentified civilians in the hallway at this time and an unknown number of officers controlling the crowd. After attempting to intervene in the arrest of § 87(2)(b) § 87(2)(b) was arrested in the same hallway area where the arrests of § 87(2)(b) and § 87(2)(b) were taking place. In describing how § 87(2)(b) was physically arrested, Cpt. McSorley stated, “Handcuffs were placed on his wrists and he was taken to the stationhouse.” When questioned directly, Cpt. McSorley stated that a struggle took place during the arrest. Cpt. McSorley stated that he did not know who placed § 87(2)(b) under arrest because he was focused on arresting § 87(2)(b). He stated that he only briefly glanced behind him while arresting § 87(2)(b) and only briefly observed “pushing and shoving” between § 87(2)(b) and an unknown number of unidentified officers. He could not recall if Lt. Cortright or Lt. Rivera were involved in the arrest of § 87(2)(b). He did not recall any officer placing their arm around § 87(2)(b) neck or striking him. He stated that he was not physically involved in the arrest of § 87(2)(b) but was present. He denied seeing the entire struggle, stating instead that he was focused on arresting § 87(2)(b). Cpt. McSorley denied that he used any physical force against § 87(2)(b) including striking him with an asp.

Cpt. McSorley recalled other civilians being in the hallway at this time, but stated that they did not attempt to physically intervene in the arrest of § 87(2)(b). He denied that he ever used physical force against anyone other than § 87(2)(b) besides his physical separation of the group fighting when he first arrived. He denied ever striking any females, specifically, punching them in the face. Cpt. McSorley denied that he ever used a nightstick or asp against any individuals.

Cpt. McSorley suffered a welt above his lip as a result of being punched by § 87(2)(b). He did not seek medical treatment or file LOD injury paperwork. Cpt. McSorley did not recall any civilians being injured or complaining of being injured. He did not recall any officers being injured. He did not recall hearing Lt. Cortright saying that he suffered any injuries, specifically to his hand. Cpt. McSorley directed officers to take § 87(2)(b) to the hospital after she arrived at the stationhouse, due to her pregnancy.

After the initial interview, Cpt. McSorley was presented with a video of the 2nd floor hallway of § 87(2)(b). He confirmed that the video showed § 87(2)(b) and the additional black female (§ 87(2)(b)) who had been fighting with § 87(2)(b). From the video, Cpt. McSorley could not be sure if the male shown was § 87(2)(b). He confirmed that the video showed the behavior he testified to observing, agreeing, however, that the video did not show anyone being slapped. He confirmed that the video showed himself and Ins. Essig approaching the group of three. Cpt. McSorley confirmed that the

video showed himself physically separating the two females from § 87(2)(b) as well as Ins. Essig holding § 87(2)(b) against a wall. Cpt. McSorley was not sure if § 87(2)(b) was being placed under arrest at that time. Cpt. McSorley stated that after he pushed § 87(2)(b) and the other female back, he stated words to the effect of “stay back” and “calm down.” The video then shows § 87(2)(b) swinging her arms in the air as she comes towards Cpt. McSorley. Cpt. McSorley confirmed that this was the point where she struck him in the face. Cpt. McSorley stated that he did not believe that the video showed him striking any females. He stated that he still did not recall striking anyone at that point.

He stated that he believes that he pushed back the female in the red shirt who approaches him on his right side (§ 87(2)(b)). He stated that he feared for his safety because he did not know what she was doing and thought she could have been going for his gun, so he pushed her back. Cpt. McSorley did not recall what the females were saying because “everyone was yelling and screaming.” He stated that the three females in the video were repeatedly ordered to “stay back” and “stop” but that they continued to come towards him. He stated that he intended to arrest § 87(2)(b) and § 87(2)(b) but he could not recall if they were arrested.

After watching the sequence in which he comes into contact with the three females, Cpt. McSorley denied that he ever intended to strike any of them. He stated that his intent was to separate them and place § 87(2)(b) under arrest. He stated that he was attempting to take his handcuffs off his belt at that point and was not intending to strike her. Cpt. McSorley continually stated that he did not recall striking § 87(2)(b) in the face, stating that his back is to the camera in the video and does not show him striking her. He again denied that he intentionally threw § 87(2)(b) face-first to the floor, stating instead that she fell away from him, against the wall, and “rolls” to the floor. He stated that his intent was to place handcuffs on her.

With regard to the portion of the video containing § 87(2)(b) Cpt. McSorley confirmed that contrary to his earlier testimony, the video does not show § 87(2)(b) intervening in the arrest of § 87(2)(b) as § 87(2)(b) has clearly been escorted out of the hallway by Lt. Gill and Ins. Essig by the point § 87(2)(b) arrives. Cpt. McSorley stated that he recalled pushing and yelling taking place to the right of the stairs, as shown in top of the frame of the video, but he could not recall who exactly was involved. He recalled that he and the other officers ordered all civilians to “clear the hall,” and that some civilians did not comply. Cpt. McSorley identified Lt. Cortright as the officer who can be seen standing behind § 87(2)(b) as § 87(2)(b) is pulled back towards the camera. He identified Lt. Rivera as the officer standing to § 87(2)(b) left at that time (on the right side of the screen). Cpt. McSorley confirmed that the video showed Lt. Cortright standing behind § 87(2)(b) with his left arm around the front of § 87(2)(b) neck, but he stated that he did “not believe” that Lt. Rivera was applying pressure to § 87(2)(b) neck. He stated that Lt. Cortright, “had his arm around his neck, but he didn’t have a chokehold applied.” Cpt. McSorley believed that there was “slack” between § 87(2)(b) neck and Lt. Cortright’s arm, and that § 87(2)(b) breathing was not being restricted. Cpt. McSorley conceded that after § 87(2)(b) fell face-forward onto the floor, he did take out his asp, holding it in his right hand, and strike him “once or twice” in the lower legs, as the video portrays. Cpt. McSorley claimed that he simply did not recall this use of force when initially questioned about it. Cpt. McSorley stated that he struck § 87(2)(b) in an attempt to get control over him. He stated that he did not believe that Lt. Cortright and Lt. Rivera would be able to subdue § 87(2)(b) on their own.

Ins. James Essig

Ins. James Essig is a § 87(2)(b) year old white male who stands 5’7” tall, weighs 215 pounds and has black hair. He is the Commanding Officer of the 44th Precinct.

On May 28, 2006, Ins. Essig worked in uniform from 3:00pm (May 27) to 6:00am. He was driving an unmarked vehicle. Ins. Essig does not keep a memo book.

Ins. James Essig was interviewed at the CCRB on February 22, 2007 (encl. 21).

On May 28, 2006, at some point prior to 12:30am, a shots fired call was made in the vicinity of § 87(2)(b) and § 87(2)(b). Ins. Essig responded and learned that a foot pursuit had taken place. While at the

location, Ins. Essig's attention was drawn down to the vicinity of § 87(2)(b) and § 87(2)(b) which was only a half block away. A large group of youths had convened on the street. Ins. Essig and two unidentified patrol officers walked to the location, to investigate the possibility that they were involved in the shooting. On § 87(2)(b) Ins. Essig observed over one hundred people in the street, many of whom were drinking alcohol. As he approached the crowd, Ins. Essig observed a young man lying in the street suffering what he initially believed to be a seizure. Ins. Essig learned that an impromptu block party and barbecue was taking place on the block. Ins. Essig eventually found out that the man on the ground had been punched or "karate chopped" in the windpipe. Ins. Essig overheard some men in the street say something to the effect of, "That's it. It's on. It's on now." After the man was transported to the hospital, a group of individuals began walking south on § 87(2)(b) away from the location, towards § 87(2)(b). Ins. Essig and other officers attempted to clear the street and find whoever was in charge of the party. After leaving briefly, the group of youths returned to the block and began "running amuck." Ins. Essig believed that some of these men might be armed, based on the injured youth and the statements he had overheard. Some of these individuals were stopped, frisked and arrested for disorderly conduct.

Soon after the arrests, unidentified individuals began throwing bottles at the officers on scene from the direction of § 87(2)(b). Ins. Essig did not know if the bottles were coming from the roof of the building or from a crowd that had formed outside the building. Ins. Essig called Cpt. William McSorley, the Executive Officer, over his point-to-point Nextel, and requested that he come to the scene. Cpt. McSorley was at the 44th Precinct stationhouse, having returned there after the shots fired call. When Cpt. McSorley and additional officers arrived, possibly including Lt. Patrick Cortright, several individuals entered § 87(2)(b). After explaining the situation, Ins. Essig, Cpt. McSorley, a few lieutenants and some police officers entered the building after the individuals. Ins. Essig explained that he and the other officers entered the building to either find whoever was throwing bottles or find an individual who might have a gun. Ins. Essig and Cpt. McSorley went up the stairs to the right side of the building as other officers conducted verticals. Ins. Essig's attention was drawn to the left side of the building. Minutes earlier, a call had been made from inside the building reporting a dispute. As Ins. Essig and Cpt. McSorley walked down a long corridor on the left side of the building, Ins. Essig heard screaming and yelling coming from the corner hallway of the building, at the end of the corridor he was walking. He observed a male and a female, and possibly a second female, engaged in "some sort of fight, or a large dispute." These individuals were identified by the investigation as § 87(2)(b), § 87(2)(b) and § 87(2)(b). Ins. Essig confirmed that these were not individuals that he had observed throwing bottles at officers. He also stated that he did not see these individuals, at any point, in any sort of physical fight or struggle amongst themselves. As he and Cpt. McSorley got within five to ten feet of the individuals, Ins. Essig shouted, "Hey, what's going on here?" § 87(2)(b) responded something to the effect of "Fuck you" or "Go fuck yourself." Ins. Essig grabbed § 87(2)(b) by the left arm and placed him against the wall to frisk him, since he did not know if the male was armed. As he asked § 87(2)(b) if he lived in the building, Ins. Essig noticed a commotion to his left, involving Cpt. McSorley and one of the females, who was screaming very loudly. Ins. Essig did not see exactly what happened but recalled that § 87(2)(b) ended up on the ground, possibly due to the floor, which was very slippery. He believed that some sort of "tussle" took place, but never observed § 87(2)(b) strike Cpt. McSorley or Cpt. McSorley strike § 87(2)(b) or any other individual. Additional officers arrived in the hallway and assisted in handcuffing § 87(2)(b) as well as § 87(2)(b) who was on the floor.

After § 87(2)(b) and § 87(2)(b) were handcuffed, unidentified civilians began appearing in the hallway, some from inside apartments. A male arrived in the hallway, later determined to be a relative of the first arrested male. This male, later identified as § 87(2)(b) got into some sort of struggle with some officers, including Lt. Cortright and Lt. Philip Rivera. The officers and § 87(2)(b) fell back onto the stairwell, and then onto the floor of the hallway. Ins. Essig recalled hearing officers repeatedly state, "Give me your hands," as the struggle took place. Shortly after § 87(2)(b) and the officers fell to the floor, he was placed in handcuffs. Ins. Essig saw part of the struggle, but was paying attention to the crowd in the hallway as well. Ins. Essig never saw § 87(2)(b) push or strike any officers and never observed any officers strike him. He recalled officers trying to grab his arms. Ins. Essig never saw Lt. Cortright with his arm around § 87(2)(b) neck. He never heard § 87(2)(b) make any statements and never observed any indication that his breathing was restricted. Ins. Essig later learned that § 87(2)(b) was arrested for pushing Lt. Cortright and resisting arrest.

§ 87(2)(b) § 87(2)(b) and § 87(2) were escorted from the building and onto the street. Ins. Essig was not sure who did this. Ins. Essig never called § 87(2)(b) a “bitch” and never heard any officers say this.

§ 87(2)(b) was arrested for disorderly conduct and resisting arrest. Ins. Essig stated that § 87(2)(b) told him that he lived in the building and was just having a dispute, Ins. Essig would have simply asked him to quiet down and allowed him to be on his way, having “adjudicated” the dispute. Once § 87(2)(b) fell to the ground, § 87(2)(b) began moving his body and resisting Ins. Essig’s attempts to restrain him.

In front of the building, Ins. Essig attempted to calm down § 87(2)(b) who was still screaming and upset. It was at that time Ins. Essig observed that § 87(2)(b) was visibly pregnant. As he attempted to calm her down, she kicked him in the backside, causing no injury. Ins. Essig learned that she kicked Lt. Gill as well. § 87(2)(b) was then transported either to the hospital or to the 44th Precinct stationhouse. She eventually received medical attention at § 87(2)(b). Ins. Essig never heard any officers call § 87(2)(b) a “btich.”

Ins. Essig explained that § 87(2)(b) is a ‘Clean Halls’ building where trespassing is illegal. His intention in initially stopping the male and female was to determine if they were legally in the building and to investigate their possible involvement in the shots fired, the fight outside the building, or the airmail (thrown bottles). Additionally, the individuals had committed disorderly conduct by screaming, yelling and causing a commotion in a public place. Ins. Essig later learned that § 87(2)(b) had punched Cpt. McSorley in the face.

Ins. Essig was shown the video footage of the incident and confirmed that it displayed the events that he was referring to in his testimony.

Lt. Patrick Cortright

Lt. Patrick Cortright is a § 87(2)(b) year old white male who stands 5’11” tall, weighs 215 pounds and has black hair.

On May 28, 2006, Lt. Cortright worked in uniform from 4:25pm (May 27) to 6:00am, assigned as an impact supervisor. He recalled that at some point that night he was working with his command officer, Ins. James Essig, but he could not recall whom he was working with at the time of the incident.

His memo book entry states, “At § 87(2)(b). 10x12 (Police officer holding suspect) X3, assigned to PO Perez 428462; Deft § 87(2)(b): Deft refused to disperse/ lawful order to back away and leave area. Deft was loud and boisterous and using abusive and threatening language. Deft did wave his hands/arms and was yelling. Deft. did shove officer and when told he was under arrest resisted and not obey verbal commands to stop resisting. Deft did resist arrest on the ground. Physical force was used to handcuff deft.” On his fly page, PO Perez’s name is listed along with “§ 87(2)(b), § 87(2)(b) Bx, NY. § 87(2)(b) § 87(2)(b). § 87(2)(b) (encl. 22A-D).

Lt. Patrick Cortright was interviewed at the CCRB on December 27, 2006 (encl. 22E-H).

On May 28, 2006, at around midnight a call of shots fired was made from § 87(2)(b) near § 87(2)(b). This call brought a large number of police officers, as well as civilians, to the area. After several arrests were made on § 87(2)(b) in relation to a large dispute, Lt. Cortright returned to the 44th Precinct stationhouse. Lt. Cortright soon returned after it was reported that a large fight was still taking place near § 87(2)(b). When he arrived, there was an ambulance and a crowd outside the building and Lt. Cortright learned that an individual had been punched. Also on scene were Ins. James Essig, Cpt. William McSorley, Lt. Philip Rivera and Lt. Brian Gill. At approximately 12:30am, Lt. Cortright entered § 87(2)(b) to make sure that “whatever was taking place outside wasn’t taking place inside the building.” When he entered, Lt. Cortright and an unidentified officer went to the right side of the building, up the stairs. He soon heard yelling coming from the left side of the building and he proceeded to the second floor of the left side of the building. Lt. Cortright observed a female in handcuffs

on the floor and a small crowd of unidentified civilians in the hallway. The female was identified by the investigation as § 87(2)(b). Ins. Essig was placing a male, who was being loud, under arrest and Lt. Cortright immediately assisted in handcuffing him by placing the male against the wall. This male was identified by the investigation as § 87(2)(b). Also in the hallway were Cpt. McSorley, Lt. Gill and Lt. Rivera.

After a few minutes, an individual later identified as § 87(2)(b) arrived in the hallway and attempted to walk towards where the arrests were taking place. Because § 87(2)(b) was coming too close to where the arrests were taking place and “being a little loud,” Lt. Cortright told him to step back. He told him that the people who were being arrested were going to the 44th Precinct and he could find out later what happened. He again asked § 87(2)(b) to step back and let the officers do their job. § 87(2) initially complied but then began getting the crowd “riled up,” yelling such things as, “Fuck that, that’s my family.” He also stated to the crowd, “Hey, come on, let’s go, there’s more of us, let’s get them.” When § 87(2) came towards Lt. Cortright again, Lt. Cortright informed § 87(2) that he was under arrest. § 87(2) pushed Lt. Cortright and attempted to retreat back into the crowd. Lt. Cortright pursued § 87(2) into the crowd, grabbed him and attempted to pull him to the other side of the hallway, away from the crowd, towards where the other officers were. Lt. Cortright needed to do this because he could not safely effect the arrest in the middle of the crowd. Lt. Cortright somehow ended up behind § 87(2) and began pushing him from behind by the shoulders. As Lt. Cortright struggled with § 87(2), § 87(2) slipped down in Lt. Cortright’s grip, and Lt. Cortright’s arm ended up around § 87(2)(b) neck. Lt. Cortright yelled for assistance and Lt. Rivera assisted in pulling § 87(2) to the other side of the hallway by grabbing § 87(2)(b) legs. By this point, Lt. Cortright had not struck § 87(2). As they reached the other side of the hall, somehow § 87(2) fell face forward to the ground, still with Lt. Cortright behind him. Lt. Cortright fell on top of § 87(2) still holding him near his neck and shoulder area. Lt. Cortright told § 87(2) to stop resisting and ordered him to give him his hands, but § 87(2) repeatedly stated something to the effect of, “Try to get my hands and I’m going to bite you.” When § 87(2) attempted to bite him, Lt. Cortright struck § 87(2) in the head at least twice. During this time, Lt. Rivera was closer to § 87(2)(b) legs so Lt. Cortright could not see if he was striking § 87(2). After Lt. Cortright said, “He tried to bite me,” Lt. Cortright heard what he believed to be an asp hitting § 87(2). Lt. Cortright did not know what officer struck § 87(2) with an asp. After a few more seconds, § 87(2) was handcuffed and the struggle ended. Lt. Cortright did not know who escorted § 87(2) out of the building.

Lt. Cortright denied that he ever intentionally attempted to choke § 87(2). Lt. Cortright did not believe that his arm was ever across the front of § 87(2)(b) throat in such a way that he was choking him or cutting off oxygen. Lt. Cortright believed that § 87(2) had room to breathe because he was speaking and struggling. Lt. Cortright stated that he did not have the opportunity to move his arm, once he realized it was near § 87(2)(b) neck, because he needed to move him away from the crowd as quickly as possible.

Lt. Cortright did not know what was happening with § 87(2)(b) while he was arresting § 87(2)(b). At some point, she was using “abusive” language towards all of the officers present. Lt. Cortright later learned that § 87(2)(b) attempted to kick Ins. Essig and Lt. Gill. Lt. Cortright denied hearing any officer call § 87(2)(b) a “bitch.”

Lt. Cortright was shown the video footage of the incident and confirmed that it displayed the events that he was referring to in his testimony.

Lt. Philip Rivera

Lt. Philip Rivera is a § 87(2)(b) year old Hispanic male who stands 5’9” tall, weighs 195 pounds and has brown hair.

On May 28, 2006, Lt. Rivera worked in uniform from 2:00pm (5/27) to 6:00am. Lt. Rivera was working with Lt. Patrick Cortright in a marked RMP at the time of the incident. Lt. Rivera had no memo book entries regarding the incident (encl. 23A-B).

Lt. Philip Rivera was interviewed at the CCRB on February 21, 2007 (encl. 23C-E)

At approximately 12:30am on May 28, 2006, Lt. Rivera responded to the vicinity of § 87(2)(b) for a call of shots fired. When he arrived, he observed a large crowd surrounding an injured individual, along with multiple police officers who had just arrived. It was soon learned that the individual had not been shot but had been punched in the throat. Witnesses on scene told officers that the fight emanated from § 87(2)(b). After a few minutes, several individuals ran inside § 87(2)(b). Soon after, the officers began receiving “airmail” in the form of objects being thrown out of the building and off the roof. Lt. Rivera and Lt. Cortright entered the building and went to the right side of the building while Cpt. William McSorley and Ins. James Essig walked up the stairs to the left side of the building. The officers entered the building both in response to the airmail and to look for suspects in the assault of the individual who had been punched. Lt. Rivera personally received a vague description of a teenage male black perpetrator from people at the scene, but he did not know if the other officers had heard the description. After completing a vertical, Lt. Rivera and Lt. Cortright returned to the lobby, at which time they heard a commotion and a female screaming from the left side of the building. Lt. Rivera and Lt. Cortright immediately proceeded to the 2nd floor on the left side, where they observed Cpt. McSorley and Ins. Essig with a pregnant black female sitting on the floor in handcuffs. This female was identified by the investigation as § 87(2)(b). Lt. Rivera did not see any struggle involving § 87(2)(b). Six to seven unidentified male and female civilians were also standing in the hallway.

A black male in the hallway, later identified as § 87(2)(b), began yelling and screaming, “That’s fucked up. That’s my sister, she’s pregnant.” Lt. Cortright and Lt. Rivera approached § 87(2)(b) and asked him to back up, because he was very close to the arrested female and the other officers. Lt. Cortright explained that the female was going to be arrested and § 87(2)(b) pushed Lt. Cortright in the chest with two hands, stating, “Fuck you.” This was the first contact between § 87(2)(b) and the officers. Lt. Cortright attempted to restrain and arrest § 87(2)(b) by grabbing him, but § 87(2)(b) resisted and continually complained about the female being arrested. Lt. Cortright grabbed § 87(2)(b) around the upper torso (shoulder-head) area with both arms while Lt. Rivera grabbed him around the middle torso (waist) area. § 87(2)(b) resisted by swinging his arms and kicking and the officers. He was stating, “You can’t fucking arrest me, you can’t touch me.” Lt. Cortright and Lt. Rivera attempted to pull § 87(2)(b) away from the crowd and the pregnant female, for safety. Lt. Rivera knew that Lt. Cortright grabbed § 87(2)(b) high up on his torso, but he did not know if his arm was ever around § 87(2)(b) neck or if Lt. Cortright was in front of or behind § 87(2)(b). During this time, § 87(2)(b) stated, “I’m going to bite you, motherfucker, let me know.” As § 87(2)(b) struggled, he incidentally fell face forward to the floor, with the officers behind him. While struggling on the floor and refusing to place his hands behind his back, Lt. Rivera heard § 87(2)(b) state again, “I’m going to bite you motherfucker, I’m going to bite you.” Due to these threats and his resistance, Lt. Rivera punched § 87(2)(b) three to four times in the left shoulder in order to get his left hand behind his back and prevent him from biting Lt. Cortright. Eventually, after thirty seconds to a minute on the ground, Lt. Cortright and Lt. Rivera handcuffed § 87(2)(b). Lt. Rivera was not sure if § 87(2)(b) ever actually bit Lt. Cortright.

Lt. Rivera did not know if any officers assisted him and Lt. Cortright, because he was focused on subduing § 87(2)(b). He also did not know if Lt. Cortright struck § 87(2)(b). Lt. Rivera denied that he struck § 87(2)(b) in the face or that he observed any other officers do this. Lt. Rivera did not believe that Lt. Cortright was ever choking § 87(2)(b) because he made several statements during the struggle, an indication that his breathing was not restricted. Lt. Rivera never observed Cpt. McSorley with his asp out or using his asp to strike § 87(2)(b). Lt. Rivera did not witness any other arrests take place that night or observe physical force being used against anyone besides § 87(2)(b). Lt. Rivera did not recall seeing Lt. Gill on scene that night. He did not know who walked the female down the stairs and did not hear any officers call her a “bitch.” Lt. Rivera did not have any knowledge of what happened in the hallway before he arrived or how the incident began. Lt. Rivera was not aware that any officers or civilians were injured in the incident.

Lt. Rivera was shown an array of four photographs of officers taken by the surveillance camera in the lobby of § 87(2)(b) on the night of the incident. He did not recognize any of the officers except PO Carlos Zapata, the training officer. He did not recall PO Zapata or any of the other unidentified officers being on scene.

Lt. Brian Gill

Lt. Brian Gill is a § 87(2)(b) year old white male who stands 5'11" tall, weighs 230 pounds and has brown/red hair.

On May 28, 2006, Lt. Gill worked in uniform with PO Eva Pena from 5:30pm (5/27) to 6:05am, assigned as the Impact Lieutenant. Lt. Gill was driving marked RMP 2109. Lt. Gill had no memo book entries regarding the incident (encl. 24A-C)

Lt. Brian Gill was interviewed at the CCRB on January 8, 2007 (encl. 24D-F).

On May 28, 2006, at around 1230am, Lt. Gill was at the 44th Precinct Stationhouse when he heard a call over the radio of a fight outside of § 87(2)(b). He was not sure of the exact type of call that came over the radio, but responded to the scene immediately. When he arrived, a large crowd of civilians and officers were outside of § 87(2)(b). Lt. Gill was not sure, but he believed that individuals had been arrested outside the building before he arrived. Lt. Gill spoke with Cpt. McSorley, who informed him that a fight had taken place in the street. While Lt. Gill and other officers stood outside the building, an unidentified officer told him that several civilian members of the crowd entered the building. Lt. Gill entered § 87(2)(b) after observing other officers enter and walked to the 2nd floor, up the stairs on the right side of the building. After not observing any problems, Lt. Gill returned to the lobby. He then heard a commotion coming from the stairwell going to the left side of the building, and saw officers running up the stairs. Lt. Gill immediately proceeded to the 2nd floor on the left side of the building, but the commotion had ended by the time he got there. When he arrived in the hallway on the left side of the 2nd floor, he saw multiple unidentified officers and civilians, and two to three individuals in handcuffs. Lt. Gill did not recall seeing any physical altercations or arrests being made. He later learned that Cpt. McSorley and Ins. Essig were in the hallway, but could not recall seeing them.

Lt. Gill returned down the stairs as one of the arrested individuals, a black female identified by the investigation as § 87(2)(b) was walked down the stairs by an unidentified police officer (not a supervisor). As she reached the bottom of the stairs, at the lobby, she kicked Lt. Gill in the groin, causing pain. Lt. Gill backed up, in reaction, but did not say anything. He did not hear any other officers say anything to her. He denied that he or any other officers called her a "bitch" or speak to her at all. He was not sure if the female kicked him on purpose, because she was "going nuts," and may have done it by accident. Lt. Gill was shown a photograph of § 87(2)(b) but could not recall if she was the female who kicked him.

Lt. Gill was unsure where PO Pena, his partner, was during the incident, but stated that he did not think she entered the building. Lt. Gill did not know what happened in the 2nd floor hallway before he got there and he did not know why any of the individuals were arrested. He did not see any physical force being used in the vicinity of § 87(2)(b) that night.

PO Jonathan Korabel

PO Jonathan Korabel is a § 87(2)(b) year old white male who stands 5'7" tall, weighs 170 pounds and has brown hair.

On May 28, 2006, PO Korabel worked in uniform with PO Marcos Sanchez from 5:30pm (5/27) to 5:35am, assigned to 311 auto. PO Korabel had no memo book entries regarding the incident (encl. 25A-B).

PO Jonathan Korabel was interviewed at the CCRB on February 20, 2007 (encl. 25C-E).

At approximately 12:30am on May 28, 2006, while on routine patrol, PO Korabel and PO Sanchez observed a large block party and several police officers on § 87(2)(b) near § 87(2)(b). PO Korabel stopped his vehicle and he and PO Sanchez exited. PO Korabel did not know why the other officers were on scene, but did recall a bottle being thrown at some point. Soon after arriving, PO Korabel observed several supervisors running into § 87(2)(b) possibly in relation to the thrown bottle. These

officers included Lt. Patrick Cortright and Ins. James Essig. PO Korabel could not recall if Cpt. William McSorley, Lt. Brian Gill or Lt. Philip Rivera were among these officers. PO Korabel and PO Sanchez entered the building to assist the supervisors. They immediately heard a commotion coming from the left side of the building, up the stairs. PO Korabel and PO Sanchez went up to the 2nd floor and observed two or three officers in white shirts (supervisors) making an arrest. PO Korabel was not sure which supervisors exactly were making the arrest. He stated that he later learned that a male and a female were arrested and recalled that it was the male who he observed being arrested. He stated that this black male, identified by the investigation as § 87(2)(b) was resisting the officers' attempts to handcuff him by fighting, flailing his arms and kicking his legs. It looked like the officers had control of the male, so PO Korabel and PO Sanchez focused on controlling a crowd of civilians that was forming in the hallway. He did not observe how § 87(2)(b) was eventually placed in handcuffs. PO Korabel did not recall the individual pushing officers before he was arrested. He did not recall seeing any officers strike the male, use an asp, or place their arms around his neck.

PO Korabel later observed a pregnant female in handcuffs, identified by the investigation as § 87(2)(b) but did not see her being arrested or any officers using physical force against her. PO Korabel believed that PO Sanchez walked § 87(2)(b) down the stairs of the building. PO Korabel also spoke to § 87(2)(b) in the street outside the building in an attempt to calm her down. PO Korabel did not recall seeing any injuries to § 87(2)(b) or hearing her complain of any. He did not hear any officers call her a "bitch."

PO Korabel was shown an array of photographs of officers taken by the surveillance camera in the lobby of § 87(2)(b) on the night of the incident. He identified PO Marcos Sanchez, his partner, as the officer in the first photograph, and himself as the officer in the second photograph. He did not recognize the third, fourth or fifth officers. He recognized the sixth officer as PO Carlos Zapata, a training officer.

PO Marcos Sanchez

PO Marcos Sanchez is a § 87(2)(b) year old Hispanic male who stands 5'7" tall, weighs 170 pound and has black hair.

On May 28, 2006, PO Sanchez worked in uniform with PO Jonathan Korabel from 5:30pm (May 27) to 2:05am, assigned to the 311 auto. PO Sanchez was the operator and therefore had no entries in his memo book. He misplaced his memo book.

PO Marcos Sanchez was interviewed at the CCRB on May 1, 2007 (encl. 26).

At approximately 12:30am on April 28, 2006, a barbecue/party was taking place in the vicinity of § 87(2)(b). PO Sanchez and PO Korabel had responded to the area earlier in the night to a 311 noise complaint. They returned at around 12:30am because the party had continued and the noise had not ceased. While outside the building, PO Sanchez observed "most of the bosses" from the 44th Precinct enter the building. These officers included the CO, Ins. James Essig, the XO, Cpt. William McSorley, as well as Lt. Patrick Cortright and Lt. Brian Gill. PO Sanchez was not sure if Lt. Philip Rivera was among the officers that entered and did not know why the officers entered. Soon after the officers entered, PO Sanchez heard screaming and a commotion coming from inside of § 87(2)(b) and he and PO Korabel went inside to investigate. They followed the noise to the 2nd floor where PO Sanchez observed Cpt. McSorley attempting to handcuff a black female, identified by the investigation as § 87(2)(b). Both Cpt. McSorley and § 87(2)(b) were on the floor, and Cpt. McSorley was attempting to handcuff her. PO Sanchez assisted in the handcuffing and then maintained custody of § 87(2)(b). Once he stood her up, PO Sanchez saw that she was visibly pregnant. PO Sanchez never saw Cpt. McSorley strike § 87(2)(b).

There were several people in the hallway, but PO Sanchez did not know who they were. There were additional officers, but he only recalled seeing Cpt. McSorley and PO Korabel in the 2nd floor hallway. A number of people came out of their apartments and unidentified officers ordered them to stay back. After a few minutes, PO Sanchez walked § 87(2)(b) down the stairs to the front of the building. She walked under her own power and did not appear to be injured. Once outside the building, PO Sanchez observed two

additional arrested individuals, though he could not describe them. He later learned that the two additional arrests were also made in the 2nd floor hallway

PO Sanchez did not observe any other arrests being made or any physical force being used by any officer. PO Sanchez did not recall § 87(2)(b) making any statements, besides saying that she was pregnant. PO Sanchez did not know who walked § 87(2)(b) down the stairs with him and did not recall any officers calling her a “bitch.”

PO Sanchez was shown an array of photographs of officers at the scene. He identified himself and PO Korabel from the photographs, as well as PO Carlos Zapata, but could not identify any of the other officers.

PO Carlos Zapata

PO Carlos Zapata is a § 87(2)(b) year old Hispanic male who stands 5’8” tall, weighs 200 pounds and has black hair.

On May 28, 2006, PO Zapata worked in uniform from 5:30pm (May 27) to 2:05am, assigned as the training officer. He did not know who he was working with at the time, as he always works with different rookie officers. He misplaced his memo book but stated that he did not have any entries.

PO Carlos Zapata was interviewed at the CCRB on June 14, 2007 (encl. 27).

On May 28, 2006, PO Zapata responded to the vicinity of § 87(2)(b) for reasons he could not recall. Once on scene, he entered § 87(2)(b) and walked to the 2nd floor, again for unknown reasons. On the 2nd floor, PO Zapata observed a crowd of civilians and police officers. On May 28, 2006, a female was arrested inside § 87(2)(b). PO Zapata recalled seeing a female in handcuffs standing in the hallway alongside Ins. James Essig. The female was acting very violently and kicking her legs at Ins. Essig. PO Zapata was not sure if she actually kicked Ins. Essig or any other officers. PO Zapata recalled that Cpt. McSorley, Lt. Cortright and Lt. Rivera were on scene, but he could not recall any other officers. PO Zapata did not have any contact with the female and did not know who walked her out of the building.

PO Zapata did not witness any physical force used against civilians. He never heard Lt. Gill or any officer call the female a “bitch.” PO Zapata did not know any of the circumstances of the female’s arrest or any arrests made in § 87(2)(b) on that date.

PO Zapata was shown an array of photographs of officers on the scene. He vaguely recognized some of the officers but could not identify any of them by name. He reviewed the roll call for that tour, but it did not refresh his memory as to the identities of any of the officers presented.

PO Jose Rodriguez

PO Jose Rodriguez is a § 87(2)(b) year old Hispanic male who stands 5’9” tall, weighs 170 pounds and has brown hair.

On May 28, 2006, PO Rodriguez worked in uniform from 5:30am (5/27) to 2:05am, assigned to solo foot post 17. PO Rodriguez’s memo book has an entry of, “0039- 3 under at § 87(2)(b),” but this entry is crossed out. The following entry states, “Disregard the three under” (encl. 28A-B).

PO Jose Rodriguez was interviewed at the CCRB February 14, 2007 (encl. 28C-D).

PO Rodriguez denied recalling the incident at all. He confirmed that the tour 3 roll call for May 27, 2006, lists his assignment at Post 17 and that the SPRINT generated in regards to the incident at hand lists Post 17 calling “3 under” at 12:39am. He initially did not realize that the entry he had crossed out in his memo book was related to the incident, but when asked about it, he stated that sometimes arrests get assigned over the radio and then reassigned. He stated that since he was not at § 87(2)(b) or § 87(2)(b) that night,

and did not have any arrests, this was what must have happened. He had no knowledge of the incident inside § 87(2)(b) on May 28, 2006.

PO Rodriguez was shown an array of photographs of six officers taken by the surveillance camera in the lobby of § 87(2)(b) on the night of the incident. He did not recognize any of the officers, except the officer in the sixth photograph. He stated that this was a 44th Precinct training officer, though he could not recall his name.

Medical Records

Civilians

§ 87(2)(b) was treated at § 87(2)(b) while in police custody between § 87(2)(b) and § 87(2)(b) (encl. 29).

The ambulance call report for § 87(2)(b) notes she was first treated at the 44th Precinct at § 87(2)(b) on § 87(2)(b) and that her chief complaint was, "I want a check-up." The report further states that § 87(2)(b) was eight months pregnant with her first child and was complaining of pain to her upper abdomen.

Records from § 87(2)(b) indicate that § 87(2)(b) complained of mild abdominal pain beginning on § 87(2)(b). Records from § 87(2)(b) state that § 87(2)(b) was admitted in police custody, "due to pregnancy related problems." § 87(2)(b) reported that she was struck in the face and stomach by police officers after she attempted to intervene in the arrest of her boyfriend. § 87(2)(b) gave birth to a baby girl on § 87(2)(b).

Officers

While Cpt. McSorley testified to the CCRB and claimed in arrest documentation that he sustained swelling and redness above his lip as a result of § 87(2)(b) actions, he completed no Assault Report, Line of Duty Injury or AIDED paperwork and sought no medical attention for his alleged injury.

NYPD Documents

The 44th Precinct roll call for tour 3 on May 27, 2006 confirms that all of the subject and witness officers interviewed for this case were working at the time of the incident (encl. 30).

Multiple SPRINT reports were obtained with regards to the incident inside of § 87(2)(b) as well as the events that preceded it (encl. 31):

SPRINT § 87(2)(b) was generated at 12:01am on May 28, 2006, after an anonymous female caller reported that fifty to one hundred males were outside of § 87(2)(b), and that shots had been fired. The Executive Officer of the 44th Precinct, Cpt. William McSorley, along with other units, responded to this call.

SPRINT § 87(2)(b) was generated at 12:02am after another anonymous female caller reported gang fighting outside § 87(2)(b). Additional calls reported that large groups, possibly gangs, were fighting, throwing bottles at each other and had surrounded a car. Cpt. McSorley responded to this call as well.

SPRINT § 87(2)(b) was generated at 12:04am after Cpt. McSorley reported that 2 perpetrators were in custody near § 87(2)(b) and § 87(2)(b). While Cpt. McSorley reported that additional perpetrators may have had weapons, he noted that no shots were fired.

SPRINTs § 87(2)(b), § 87(2)(b) and § 87(2)(b) were generated around 12:08am, after anonymous callers reported that an individual was having trouble breathing, having a seizure, or having a heart attack

in front of § 87(2) or § 87(2)(b), between § 87(2)(b) and § 87(2)(b). EMS responded and the individual was removed from the scene.

SPRINT § 87(2)(b) was generated at 12:28am, when the patrol supervisor reported that ten individuals were arrested outside 1011 § 87(2)(b).

SPRINT § 87(2)(b) was generated at 12:33am, after three callers reported a loud dispute (people screaming and arguing) on the 2nd floor of § 87(2)(b).

SPRINT § 87(2)(b) was generated at 12:38am, when a female caller reported that a pregnant female was being assaulted by several police officers at § 87(2)(b). This caller called from § 87(2)(b). Under the authority of Lt. Patrick Cortright, three individuals were arrested at the location. EMS also responded to the scene.

The 44th Precinct Command Log for May 28, 2006 was obtained (encl. 32). The arrests of § 87(2)(b) and § 87(2)(b) are noted at 12:50am. The arresting officer is listed as PO Madelyn Perez. Both § 87(2)(b) and § 87(2)(b) condition is listed as normal. § 87(2)(b) condition is noted as “pregnant.”

Civil Suits

§ 87(2)(b) filed a notice of claim with the City of New York on § 87(2)(b), on behalf of herself and her daughter, § 87(2)(b) (encl. 33). The notice states that § 87(2)(b) was assaulted and falsely arrested on May 28, 2006, causing her to suffer “severe permanent personal injuries including facial and other physical injuries and complications to her pregnancy.” The notice also states that, “Claimant § 87(2)(b) sustained severe permanent and personal injuries including severe difficulty breathing.” It notes that § 87(2)(b) was shackled to her bed at § 87(2)(b) for four days and was given medication to stop preterm contractions. It further states that § 87(2)(b) was born on § 87(2)(b), and was transferred to § 87(2)(b) on § 87(2)(b) due to severe breathing problems. No specific amount of money is noted.

Disposition of Criminal Charges (encl. 34)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Subject Officers' CCRB History

Ins. James Essig and Cpt. William McSorley have no substantiated CCRB allegations (encl. 4-5).

Lt. Patrick Cortright had an allegation of abuse of authority (vehicle stopped) substantiated in CCRB case 200412058 (encl. 6). He received instructions from the NYPD.

Lt. Brian Gill had an abuse of authority allegation (search of person) substantiated in CCRB case 9800951 (encl. 7). He received a command discipline 'B.'

Lt. Philip Rivera had two abuse of authority allegations (person searched and other) substantiated in CCRB case 9801122 (encl. 8). He received a command discipline 'B.'

Conclusions and Recommendations

Officer Identification

PO Madelyn Perez was identified as the arresting officer of § 87(2)(b) and § 87(2) and § 87(2)(b) from the arrest reports. In her CCRB interview, she identified Cpt. William McSorley and Lt. Patrick Cortright as being involved in the incident and reporting to her what the circumstances of the arrest were. PO Perez also identified Ins. James Essig as being involved. § 87(2)(g)

§ 87(2)(g) All officers confirmed their involvement during their CCRB interviews.

§ 87(2)(g)

The SPRINT report lists a foot post officer as being assigned to the arrests. This officer was identified from the roll call as PO Jose Rodriguez, yet PO Rodriguez denied involvement in the incident during his CCRB interview and is not present in any of the video footage.

Undisputed Facts

The undisputed facts in this case are based on the video evidence and NYPD communications records that document the events that took place in and around § 87(2)(b) in the early morning of May 28, 2006.

It is undisputed that beginning at approximately 12:00am on May 28, 2006 a large fight took place in the vicinity of § 87(2)(b). Several officers from the 44th Precinct responded to the scene, originally in response to a call of shots fired a few blocks away. At around 12:30am § 87(2)(b) § 87(2)(b) and § 87(2)(b) entered § 87(2)(b) their residence, and began arguing in the 2nd floor hallway. Seconds after, several police officers entered the building suspecting further violence and in response to airmail from the building. Around this time, 911 calls were made reporting the dispute on the 2nd floor. Ins. James Essig and Cpt. William McSorley encountered the three civilians in the 2nd floor hallway and forcibly stopped § 87(2)(b). As Ins. Essig placed § 87(2)(b) against the wall, § 87(2)(b) attempted to walk towards where this was happening. Cpt. McSorley grabbed her by the shoulders and pushed her back. § 87(2)(b) and § 87(2)(b) immediately began aggressively walking towards § 87(2)(b) in an apparent attempt to intervene in his arrest, but Cpt. McSorley forcefully pushed both back at the same time. § 87(2)(b) then ran towards Cpt. McSorley with her arms flailing in the air, striking

him in the face. At the same moment, Cpt. McSorley forcefully pushed or struck § 87(2)(b) in the upper body or face, causing her to stumble back. Cpt. McSorley, who had his handcuffs out and in his right hand at this point, pursued § 87(2)(b) and threw a right punch. However, Cpt. McSorley punched § 87(2)(b) who had gotten in between the two, in the face with his right hand, causing her head to collide with § 87(2)(b) against the wall. § 87(2)(b) a friend of the § 87(2)(b) ran towards Cpt. McSorley at this point and Cpt. McSorley turned and struck her in the face with his right hand, causing her to stumble back and run from the hallway. Cpt. McSorley then directed his attention back towards § 87(2)(b) who was cowering against the wall. With knowledge that § 87(2)(b) was pregnant, Cpt. McSorley again made physical contact with her, possibly striking her, before throwing her forcefully, face down, to the floor. Cpt. McSorley then got on the floor and attempted to grab § 87(2)(b) wrists, but she resisted. The entire altercation lasted only seconds. At this point, additional officers, including Lt. Patrick Cortright, Lt. Philip Rivera, Lt. Brian Gill, PO Marcos Sanchez, and PO Jonathan Korabel arrived in the hallway. Lt. Cortright assisted Ins. Essig in handcuffing § 87(2)(b) while PO Sanchez assisted in handcuffing § 87(2)(b) on the floor. Lt. Gill immediately walked § 87(2)(b) down the stairs and out of the building.

Meanwhile, a small crowd of civilians formed in the 2nd floor hallway. As § 87(2)(b) was lifted up off the ground by Lt. Rivera and PO Sanchez, § 87(2)(b) cousin, § 87(2)(b) reached the top of the stairs leading to the 2nd floor hallway. Lt. Cortright immediately blocked his path and directed him away from § 87(2)(b). Shoving ensued between Lt. Cortright and § 87(2)(b) and Lt. Cortright began pulling § 87(2)(b) from behind, away from the crowd of civilians, with his left arm around the front of § 87(2)(b) neck. § 87(2)(b) attempted to pull Lt. Cortright's arm off of him as Lt. Rivera assisted Lt. Cortright. Once away from the crowd, Cpt. McSorley struck § 87(2)(b) in the legs with his asp and § 87(2)(b) fell face forward to the ground, with Lt. Cortright and Lt. Rivera on top of him. Lt. Rivera and Lt. Cortright struck § 87(2)(b) in the upper body multiple times as Cpt. McSorley struck § 87(2)(b) in the ankles with his asp. After a few seconds, § 87(2)(b) was placed in handcuffs and both he and § 87(2)(b) were walked down the stairs and out of the building.

Disputed Facts

The arrest reports and criminal court complaints for § 87(2)(b) and § 87(2)(b) as completed by PO Madelyn Perez based on information provided by Cpt. McSorley, state that § 87(2)(b) and § 87(2)(b) were pushing, screaming, slapping and fighting in the 2nd floor hallway of § 87(2)(b) (b). Cpt. McSorley reiterated this account in his CCRB interview, stating that § 87(2)(b) § 87(2)(b) and § 87(2)(b) were "in a physical fight" in the hallway when he arrived. § 87(2)(g) While § 87(2)(b) § 87(2)(b) and § 87(2)(b) appeared on the video (which has no sound) to be verbally arguing and making incidental, non-aggressive, physical contact in the 2nd floor hallway, they were not pushing, slapping or physically fighting. While video footage from the lobby of § 87(2)(b) does capture a more physical altercation between § 87(2)(b) and § 87(2)(b) no officers interviewed observed this and it was confirmed that the arrest paperwork was not referring to this interaction.

Cpt. McSorley § 87(2)(g) denied that he threw § 87(2)(b) face-first to the floor, or at all. He also initially denied that he ever struck § 87(2)(b) with his asp, or that he was ever physically involved in the arrest of § 87(2)(b) whatsoever. § 87(2)(g)

§ 87(2)(b) § 87(2)(b) and § 87(2)(b) all alleged that Cpt. McSorley either punched or struck (with his asp) § 87(2)(b) in the belly while she was on the floor. § 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(b) alleged that she was dragged down the stairs of § 87(2)(b) by unidentified officers. She stated that officers held her under the arms and carried her as her feet dragged along the stairs. § 87(2)(g)

It was also alleged by § 87(2)(b) § 87(2)(b) and § 87(2)(b) that Cpt. McSorley either punched or struck § 87(2)(b) in the stomach with his asp. Though § 87(2)(b) stomach did strike the floor as a result of Cpt. McSorley's use of force, § 87(2)(b) did not allege to the CCRB that he ever

struck her in the stomach § 87(2)(g)

Allegations

A) Abuse of Authority: Ins. James Essig forcibly stopped § 87(2)(b)

B) Abuse of Authority: Cpt. William McSorley forcibly stopped § 87(2)(b)

§ 87(2)(g)

C) Force: Cpt. William McSorley used physical force against § 87(2)(b) § 87(2)(b) and an individual known as § 87(2)(b)

Patrol Guide procedure 203-11 dictates that “All uniformed members of the service are responsible and accountable for the proper use of force under appropriate circumstances... The primary duty of all members of service is to preserve human life. Only that amount of force necessary to overcome resistance will be used to effect an arrest” (encl. 1). New York State Penal Law section 35.30 states that, in making an arrest, an officer “may use physical force when and to the extent he reasonably believes necessary to effect the arrest” (encl. 2). The Police Student Guide’s section on the use of force lays out a “scale of escalating force” (encl. 3). The guide states that “Impact techniques” using “batons, fist and feet” shall only be used in response to “physical assault likely to cause physical injury.” On the other hand, “compliance techniques” described as “wrestling holds and grips designed to physically overpower subjects” should be used when civilians exhibit “minor physical resistance.” These compliance techniques are intended to “cause no lasting injury.”

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

New York State Penal Law dictates that an officer may use physical force “to the extent he reasonably believes necessary.” § 87(2)(g)

[Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g)

§ 87(2)(g)

D) Force: Lt. Patrick Cortright used physical force against § 87(2)(b)

§ 87(2)(g)

E) Force: Lt. Patrick Cortright used a chokehold against § 87(2)(b)

Patrol Guide procedure 203-11 expressly prohibits the use of chokeholds, defined as “any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air” (encl. 1). § 87(2)(g)

F) Force: Lt. Philip Rivera used physical force against § 87(2)(b)

G) Force: Cpt. William McSorley struck § 87(2)(b) with an asp.

§ 87(2)(g)

H) Discourtesy: Lt. Brian Gill spoke obscenely and rudely to § 87(2)(b)

§ 87(2)(b) initially alleged that the officer who stopped § 87(2)(b) and pushed him against the wall (Ins. Essig) called her a “bitch” as she was being walked out of the building. However, she described Ins. Essig as having red hair, which he does not. Since § 87(2)(b) claimed that the subject of this allegation was wearing a white shirt, a photo array of all white-shirt officers on scene was presented to her. Four fillers were included. § 87(2)(b) picked out Lt. Gill, who was on scene, as being the subject of her discourtesy allegation. Lt. Gill and all officers interviewed denied that this allegation occurred and no civilian witnesses heard it. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: